

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES--GENERAL

Case No. SACV 13-1933-DOC (JPRx)

Date: July 22, 2014

Title: Poquito Mas Licensing Corp. v. Taco Bell Corp. et al.

DOCKET ENTRY: Order Provisionally Denying Application to File Document
Under Seal

PRESENT:

HON. JEAN P. ROSENBLUTH, MAGISTRATE JUDGE

Bea Martinez
Deputy Clerk

n/a
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:

None present

ATTORNEYS PRESENT FOR DEFENDANTS:

None present

PROCEEDINGS: (IN CHAMBERS)

On July 17, 2014, Plaintiff filed an application for leave to file under seal Exhibit 2 in support of its supplemental memorandum on its pending discovery motion. In contravention of Local Rule 79-5.1, however, it did not lodge with the Court a copy of the exhibit. At the Court's request, Plaintiff subsequently emailed a copy of the document to chambers.

As justification for the under-seal filing, the application states in full: "Good cause exists for granting this Application where the referenced document contains portions of a deposition transcript that were designated as 'HIGHLY CONFIDENTIAL – ATTORNEY'S EYES ONLY' by Taco Bell pursuant to the Protective Order in this action."

The Court entered a protective order in this case on May 12, 2014. As to filing documents under seal, it states only that a party seeking to file confidential information must comply with Local Rule 79-5 and Judge Carter's order concerning under-seal filings. It does not confer blanket authorization for the parties to file under seal any documents they have labeled confidential.

The law requires a showing of good cause for an under-seal filing. See Fed. R. Civ. P. 26(c). An applicant must show that protection is warranted for the designated

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information or documents and that the good-cause standard for a nonpublic filing is met. See Kamakana v. City & Cnty. of Honolulu, 447 F.3d 1172, 1180 (9th Cir. 2006) (distinguishing showing necessary for under-seal filing for dispositive motion (“compelling reason”) from that for nondispositive motion (“good cause”)). If the Court were automatically to allow filing under seal simply because one party or the other has designated something as confidential under the terms of a protective order, then any sort of judicial review would be circumvented. Given the strong public policy in favor of public filings, the Court declines to abdicate its responsibility to ensure that good cause underlies the under-seal filing of any discovery motion or its attendant documents.

Accordingly, because Plaintiff has not shown good cause, the request to file the exhibit under seal is provisionally DENIED unless within five Court days of the date of this order Defendant shows cause in writing why Exhibit 2 should be filed under seal. If Defendant has not filed any such response by the applicable date, the Clerk is directed to file the unredacted document in the public record.

cc: Judge Carter